IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 10641 OF 2004

Jadhav Shankar Ramchandra ...

Petitioner

Versus

The State of Maharashtra and Ors. .. Respondents.

Mr. A.R. Shaikh for the petitioner.
Mrs. M.P. Thakur, Assistant Government Pleader, for respondent Nos. 1 to 3.

CORAM: **KSHITIJ R. VYAS, C.J.** &
DR. D.Y. CHANDRACHUD, J.

DATE: **APRIL 27, 2006**.

P.C.

Heard the learned counsel for the parties.

2. It is the grievance of the petitioner that even though he was appointed, promoted and placed in the permanent post of Assistant Teacher in the Graduate Pay Scale, but still his promotion in the Graduate Pay Scale is not approved and paid the pay scales of S.S.C. D.Ed. without any justifiable reasons.

3. According to the petitioner, he was promoted and placed in the Graduate Pay Scale since 2-7-1998 and since then he is working in

the said pay scale and teaching to secondary students and teaching Hindi subject from 1998. In 1998, the management sent the proposal of approval of the petitioner in the Graduate Pay Scale to the Education Department but till the date of filing of this petition, the proposal is kept in abeyance and not considered. The aforesaid claim made by the petitioner on the averments that the petitioner was appointed on 31-08-1994 as Assistant Teacher in the pay scale of Rs.1200-2040 (S.S.C. D.Ed.) by the management. On 13th July, 1995 he was confirmed and that on 15th July, 1995, the Education Department granted approval to his appointment.

4. The Deputy Education Officer (Secondary), Zilla Parishad, Nashik, has filed a reply affidavit. He has stated that the petitioner belonged to OBC category and there is no backlog of OBC in the teaching cadre of the recognised Secondary Schools run by the Management. He has further stated that the petitioner's approval has not been granted during the academic year 1995-96, 1996-97 and 1997-98. As per the order dated 15th October, 1998, the petitioner's appointment along with one Thorat Pravin Ratan has been approved with effect from 1-9-1998 by the management with a view to fill the new post of Assistant Teacher from the S.C. Categotry and that the

Petitioner's appointment has been approved in the pay scale of Rs.1200-2040 (i.e. in the D.Ed.Scale). The deponent has referred to certain other petitions filed by the other Assistant Teachers being Writ Petition No. 2496 of 1992 and Writ Petition No. 2591 of 1992 for seeking Graduate Pay Scale. According to him, due to the pendency of these petitions, the decision regarding granting of Grade Pay Scales has not been considered.

5. Having heard the learned counsel appearing for the parties, in our opinion, the petition can be disposed of by giving the following directions.

(i) The Education Officer (Secondary) Zilla Parishad, Nashik, shall decide the question regarding granting of Graduate Pay Scale and the seniority of the Petitioner vis-a-vis the other Assistant Teachers in the Secondary School run by the management and shall take appropriate decision irrespective of the fact of pendency of the aforesaid two writ petitions and pass appropriate orders after hearing the concerned teachers and the School Management.

(ii) The School Management is directed to submit all the relevant information to the Education Officer (Zilla Parishad) within four weeks from today and the Education Officer shall decide the issue two months thereafter and communicate his decision to the Petitioner.

6. Petition is disposed of in the aforesaid terms.

7. Registry is directed to delink Writ Petition Nos. 2496 of 1992 and 2591 of 1992 which were directed to be heard along with this petition.

CHIEF JUSTICE

DR. D.Y. CHANDRACHUD, J.